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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,695	09/10/2003	Scott A. Abfalter	6785-228	7542
39207 7590 04/09/2007 SACCO & ASSOCIATES, PA P.O. BOX 30999 PALM BEACH GARDENS, FL 33420-0999			EXAMINER ROCHE, TRENTON J	
			ART UNIT	PAPER NUMBER
			2193	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/09/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/659,695

Applicant(s)

ABFALTER ET AL.

Examiner

Trenton J. Roche

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 20030910
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This Office action is responsive to communications filed 10 September 2003.
2. Claims 1-37 are currently pending and have been examined.

#### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-6, 8-24, 26-28 and 31-37 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication 2004/0098715 A1 to Aghera et al. ("Aghera").

#### **Per claims 1 and 16:**

Aghera discloses:

- transferring software to a software-defined radio device from a software server, said software server location remotely located with respect to said software-defined radio device ("Software Defined Radio..." in paragraph 0002. Further, note Figure 1 and the corresponding sections of the disclosure.)
- storing said software to a portion of a data store associated with said software defined radio device, said portion of said data store not being used as a storage for currently running software (Note paragraph 0031, 0032 and 0050.)

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- loading at least one of said transferred software and said currently running software to said software-defined radio device during a restart of said software defined radio device (“installing the patch...device is rebooted...” in paragraph 0038)
- verifying said loading step (“results of the patch installation...” in paragraph 0038)

substantially as claimed.

**Per claims 2, 17 and 27:**

Aghera further discloses reverting to a previous software version upon a fault detection as claimed (Note paragraph 0055).

**Per claims 3 and 28:**

Aghera further discloses monitoring said transferring and loading steps as claimed (Note paragraphs 0028, 0054 and 0055).

**Per claims 4-6 and 21:**

Aghera further discloses a selection identifying software to be loaded as claimed (Note paragraphs 0026 and 0053).

**Per claims 8, 18 and 19:**

Aghera further discloses an error indication as claimed (Note paragraph 0041).

**Per claims 9 and 31:**

Aghera further discloses a plurality of software components as claimed (Note paragraph 0032).

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**Per claims 10, 11, 20, 22, 32 and 33:**

Aghera further discloses a version indicator accessible from a remote location as claimed (Note paragraphs 0026 and 0053. The operator would be capable of seeing the version loaded on the device.)

**Per claims 12, 13, 23, 24, 34 and 35:**

Aghera further discloses the use of a second data store as claimed (Note paragraph 0050. EEPROM is non-volatile memory.).

**Per claims 14, 26 and 36:**

Aghera further discloses the device continuing to perform radio functions while transferring as claimed (Note paragraph 0054. As the download is OTA, the radio must still perform wireless radio functionality during the transfer of updates.)

**Per claims 15 and 37:**

Aghera further discloses the device connected to the server via a communications network as claimed (Note paragraph 0024).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the

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subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7, 25, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aghera.

**Per claim 7 and 29:**

Aghera does not explicitly disclose transferring and loading software to a second software-defined radio device as claimed. Official Notice is taken that at the time the invention was made, it was well known in the art that a server can distribute multiple versions of software to device at the same time. It would have been obvious to one of ordinary skill in the art at the time the invention was made to send the software to a second device as this would ensure that multiple devices are all running the same version of software.

**Per claims 25 and 30:**

Aghera does not explicitly disclose compressing and decompressing said software prior to transfer and installation. Official Notice is taken that at the time the invention was made, compression and decompression of information over a wireless network was well known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to compress and decompress transferred software as this would reduce the required download time by making the software smaller in size.

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*Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure, and Applicants are advised to review the cited art.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trenton J. Roche whose telephone number is (571) 272-3733. The examiner can normally be reached on Monday - Friday, 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Trenton J Roche  
Examiner  
Art Unit 2193

TJR

*MENG-AI AN*  
SUPERVISORY/PATENT EXAMINER  
TECHNOLOGY CENTER